



AF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re. Appln.: Jay C. Engstrom
Serial No.: 10/664,109
Filed: September 17, 2003
For: TREE CLIMBING APPARATUS
Attorney: Gerald E. Helget
Attorney Docket No.: 33154.9
Group Art Unit: 3634
Confirmation No.: 4766
Examining Atty: Bruce A. Lev
Additional Fees: Charge to Deposit Account 023732

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

TRANSMITTAL COVER LETTER

Enclosed for filing please find the following:

1. Petition to Remove Finality of Rejection on First Office Action 37 CFR §706.07(B) (2 pgs.); and
2. Postcard receipt.

Respectfully submitted,

Dated: 16 MAR 05

By *Gerald E. Helget*
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CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service as First Class Mail, in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

By *Gerald E. Helget*
Date 16 MAR 05



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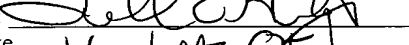
Sir:

**PETITION TO REMOVE FINALITY OF REJECTION
ON FIRST OFFICE ACTION 37 CFR § 706.07(B)**

Applicant in the above captioned U.S. Patent Application hereby petitions to remove the finality of the Office Action, mailed December 22, 2004.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Patent and Trademark Office as first class mail in an envelope addressed to: MAIL STOP AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: 
Date: 16 MAR 05

Under 37 CFR § 706.07(b), a final rejection is improper in a first office action in a continuing application unless all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office Action if they had been entered in the earlier application.

However, the following reference was not of record in the earlier application and therefore the claims of the continuing application could not have been properly finally rejected if they had been entered in the earlier application: U.S. 6,206,138 (Yerger)

Respectfully submitted,

Dated: 16 MAR 05

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